

HOUSE BILL 291

K3

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By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: January 27, 2012

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – Employment of Minors – Work Permits**

3 FOR the purpose of altering the circumstances under which the Commissioner of
4 Labor and Industry is required to issue a certain work permit; repealing a
5 certain provision of law authorizing a county superintendent of schools or a
6 superintendent's designee to issue a work permit; requiring an employer to
7 apply online to obtain a certain work permit and to make certain certifications;
8 repealing a certain provision of law requiring a certain official to issue a certain
9 work permit under certain circumstances; authorizing the Commissioner or the
10 Commissioner's authorized representative to issue under certain circumstances
11 a work permit that authorizes a minor to be employed in certain occupations;
12 requiring an employer to retain certain records for a certain time after a minor
13 leaves the employer's employment; authorizing the Commissioner to assess a
14 certain civil penalty if the Commissioner determines an employer employed a
15 minor in violation of certain provisions of law; requiring the Commissioner to
16 consider certain factors in determining the amount of a certain civil penalty;
17 authorizing the Commissioner to assess a certain penalty if the Commissioner
18 determines an employer willfully or repeatedly violated certain provisions of
19 law; requiring the Commissioner to provide an employer with a certain notice;
20 authorizing an employer to request a certain hearing within a certain time
21 period; specifying that a certain determination and penalty shall be final under
22 certain circumstances; requiring the Office of Administrative Hearings to
23 conduct a certain hearing and issue a certain decision under certain
24 circumstances; authorizing the Commissioner to order an employer to request a
25 certain review under certain circumstances; specifying that a certain proposed
26 decision is final under certain circumstances; requiring the Commissioner to
27 issue a certain final order under certain circumstances; requiring civil penalties
28 collected under this Act to be paid into the General Fund of the State; and
29 generally relating to the employment of minors.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Labor and Employment
3 Section 3–206
4 Annotated Code of Maryland
5 (2008 Replacement Volume and 2011 Supplement)

6 BY adding to
7 Article – Labor and Employment
8 Section 3–214.1 and 3–217
9 Annotated Code of Maryland
10 (2008 Replacement Volume and 2011 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Labor and Employment**

14 3–206.

15 (a) A work permit shall be issued[:

16 (1)] by the Commissioner **TO AN EMPLOYER WHO SATISFIES THE**
17 **REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION**[; or

18 (2) in accordance with the requirements of the Commissioner, by a
19 county superintendent of schools or designee of the superintendent].

20 (b) Before [issuing a work permit, the issuing officer shall confirm the age of
21 the minor for whom the permit is sought] **THE START OF A MINOR’S EMPLOYMENT,**
22 **AN EMPLOYER SHALL APPLY ONLINE TO OBTAIN A WORK PERMIT FOR THE**
23 **MINOR AND CERTIFY THAT:**

24 **(1) THE PARENT OR PERSON STANDING IN PLACE OF THE PARENT**
25 **HAS PROVIDED WRITTEN APPROVAL TO THE EMPLOYER OF THE MINOR’S**
26 **EMPLOYMENT ON A FORM MADE AVAILABLE BY THE COMMISSIONER;**

27 **(2) THE EMPLOYER HAS REVIEWED AND IS FAMILIAR WITH THE**
28 **OCCUPATIONS THAT ARE RESTRICTED UNDER § 3–213 OF THIS SUBTITLE;**

29 **(3) THE MINOR WILL NOT BE ENGAGED IN THE OCCUPATIONS**
30 **THAT ARE RESTRICTED UNDER § 3–213 OF THIS SUBTITLE; AND**

31 **(4) THE EMPLOYER HAS CONFIRMED THE MINOR’S AGE** by
32 examining:

1 ~~[(1)]~~ **(I)** a baptismal certificate for the minor; **OR**

2 ~~[(2)]~~ **(II)** a birth certificate or other official government document
3 that attests to the age of the minor~~]; or~~

4 (3) a school record for the minor].

5 **[(c)** The official to whom an application for a work permit is submitted shall
6 issue the work permit, by signing and dating the application, if:

7 (1) the document submitted under subsection (b) of this section attests
8 to the age stated on the application; and

9 (2) the employment is allowed under this subtitle for the minor for
10 whom the permit is sought.]

11 ~~[(d)]~~ **(C)** ~~[(1) An official]~~ **THE COMMISSIONER OR THE**
12 **COMMISSIONER'S AUTHORIZED REPRESENTATIVE** may issue a work permit that
13 authorizes a minor to be employed:

14 **(1)** in an occupation that otherwise would be restricted under § 3–213
15 of this subtitle, if the minor:

16 (i) is exempted, under § 7–301(d)(2)(i) of the Education Article,
17 from attendance in public school because the emotional, mental, or physical condition
18 of the minor makes instruction detrimental to the progress of the minor;

19 (ii) is to be employed only in office work;

20 (iii) is to be employed in work that is performed outside of all
21 rooms where goods are manufactured or processed; **[or]**

22 (iv) is to be employed in work that a county school system
23 obtains and supervises as part of a work–study, student–learner, or similar program
24 for which the employment is an integral part of the course of study].

25 (2) An official shall issue a work permit that authorizes a minor to be
26 employed:

27 (i) in an occupation that otherwise would be restricted under §
28 3–213 of this subtitle if the minor]; **OR**

29 **(V)** is granted an exception by the Commissioner because, after
30 investigation, the Commissioner determines that neither the work nor the work site
31 where the work is to be performed is hazardous to the minor; or

1 [(ii) (2)] in an occupation that otherwise would be restricted
2 under § 3-213(c)(1) or (2) of this subtitle, if the minor:

3 [1.] (I) has completed a course of study in that
4 occupation at an accredited school and has been graduated from the school; or

5 [2.] (II) is granted an exception by the Commissioner
6 because employment in that occupation is part of a work-study, student-learner, or
7 apprentice program under a federal, State, or local governmental agency.

8 **3-214.1.**

9 **AN EMPLOYER SHALL RETAIN THE FOLLOWING RECORDS FOR 1 YEAR**
10 **AFTER A MINOR LEAVES THE EMPLOYMENT OF THE EMPLOYER:**

11 (1) THE WRITTEN APPROVAL OF THE MINOR'S EMPLOYMENT
12 FROM THE PARENT OR PERSON STANDING IN PLACE OF THE PARENT; AND

13 (2) A COPY OF THE DOCUMENT USED BY THE EMPLOYER TO
14 CONFIRM THE MINOR'S AGE.

15 **3-217.**

16 (A) (1) IF, AFTER INVESTIGATION, THE COMMISSIONER DETERMINES
17 THAT AN EMPLOYER HAS EMPLOYED A MINOR IN VIOLATION OF THIS SUBTITLE,
18 THE COMMISSIONER MAY ASSESS A CIVIL PENALTY OF UP TO \$500 FOR EACH
19 VIOLATION OF THIS SUBTITLE.

20 (2) IN DETERMINING THE AMOUNT OF THE PENALTY, THE
21 COMMISSIONER SHALL CONSIDER:

22 (I) THE GRAVITY OF THE VIOLATION;

23 (II) THE EMPLOYER'S GOOD FAITH; AND

24 (III) THE EMPLOYER'S HISTORY OF VIOLATIONS OF THIS
25 SUBTITLE.

26 (3) THE COMMISSIONER MAY ASSESS DOUBLE THE CIVIL
27 PENALTY SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION IF, AFTER
28 INVESTIGATION, THE COMMISSIONER DETERMINES THAT AN EMPLOYER
29 WILLFULLY OR REPEATEDLY VIOLATED THIS SUBTITLE.

1 **(4) THE COMMISSIONER SHALL PROVIDE THE EMPLOYER WITH**
2 **NOTICE OF THE DETERMINATION AND ANY PROPOSED CIVIL PENALTIES.**

3 **(B) (1) WITHIN 15 DAYS AFTER RECEIPT OF NOTICE OF THE**
4 **PROPOSED CIVIL PENALTY UNDER SUBSECTION (A)(4) OF THIS SECTION, THE**
5 **EMPLOYER MAY SUBMIT A WRITTEN REQUEST FOR A HEARING ON THE**
6 **DETERMINATION AND PENALTY ASSESSED.**

7 **(2) IF THE EMPLOYER DOES NOT REQUEST A HEARING WITHIN 15**
8 **DAYS AFTER RECEIPT OF THE NOTICE, THE DETERMINATION AND PENALTY**
9 **SHALL BE FINAL.**

10 **(3) IF THE EMPLOYER REQUESTS A HEARING, THE OFFICE OF**
11 **ADMINISTRATIVE HEARINGS SHALL CONDUCT A HEARING AND ISSUE A**
12 **PROPOSED DECISION IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE**
13 **STATE GOVERNMENT ARTICLE.**

14 **(C) (1) WITHIN 15 DAYS OF THE ISSUANCE OF A PROPOSED DECISION**
15 **UNDER SUBSECTION (B)(3) OF THIS SECTION:**

16 **(I) THE COMMISSIONER MAY ORDER REVIEW; OR**

17 **(II) THE EMPLOYER MAY SUBMIT TO THE COMMISSIONER A**
18 **REQUEST FOR REVIEW.**

19 **(2) IF THERE IS NO ORDER FOR REVIEW OR REQUEST FOR**
20 **REVIEW OF THE PROPOSED DECISION, THE PROPOSED DECISION IS FINAL.**

21 **(3) AFTER REVIEW OF THE RECORD, WITH OR WITHOUT A**
22 **HEARING, THE COMMISSIONER SHALL ISSUE A FINAL ORDER THAT AFFIRMS,**
23 **MODIFIES, OR VACATES THE DETERMINATION OR PENALTY.**

24 **(D) CIVIL PENALTIES OWED UNDER THIS SECTION SHALL BE PAID INTO**
25 **THE GENERAL FUND OF THE STATE.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2012.